

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

MARK RILEY,

Plaintiff,

v.

Civil Action No. 5:11-cv-115

RANDY SHERVES

Defendant.

**REPORT AND RECOMMENDATION
THAT CASE BE DISMISSED**

On August 30, 2011, the Plaintiff filed a Motion to Proceed in Forma Pauperis. On September 12, 2011, this Court issued an Order Granting Plaintiff's Motion to Proceed in Forma Pauperis, but ordered Plaintiff to pay an initial partial filing fee of \$14.20 due within 28 days of the date of the Order. On September 16, 2011, Plaintiff filed a Motion for Extension of Time to Pay Initial Filing Fee. On September 21, 2011, this Court entered an Order Granting Plaintiff's Request for an Extension of Time to Pay Initial Filing Fee, and gave him an additional thirty (30) days from the date of the entry of the order to pay the initial fee.

A review of the file on this date shows that Plaintiff has failed to pay the initial filing fee, request another extension of time to do so, or otherwise explain his reasons for non-compliance. Accordingly, it is recommended that Plaintiff's case be dismissed.

Within fourteen (14) days after being served with a copy of this report and recommendation, any party may file with the Clerk of Court written objections identifying those portions of the recommendation to which objection is made and the basis for such objections. A

copy of any objections shall also be submitted to Senior Judge Frederick P. Stamp, Jr., United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff by certified mail, return receipt requested, to his last known address as reflected on the docket sheet.

DATED: November 4, 2011

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE